

Notice of Public Hearing

Pursuant to Section 22215 of Public Act 306 of 1969, as amended, the Michigan Department of Community Health (MDCH) will hold a hearing on Certificate of Need (CON) Review Standards.

Date: Wednesday, February 6, 2008

Time: 9:00AM

[Computed Tomography (CT) Scanner Services and Nursing Home and Hospital Long-Term Care (NH/HLTC) Unit Beds]

Location: Capitol View Building
201 Townsend Street, 1st floor
MDCH Conference Center Room C
Lansing, MI 48913

CT SCANNER SERVICES

The proposed CON Review Standards for CT Services are being reviewed and modified to include, but are not limited to, the following:

- ◆ Added language that would allow for the relocation of a unit(s) or a "service."
- ◆ Modified replace/upgrade definition. Upgrade is proposed to be removed and replace would be defined as an equipment change in the existing scanner which requires a change in the Radiation Safety Certificate.
- ◆ Added language that would allow for replacement of a scanner currently operating below minimum volume requirements (7500 CT equivalents) to receive a one time exemption if the following conditions are satisfied:
 - The existing scanner is performing at least 5000 CT equivalents in the preceding 12-month period.
 - The existing scanner at one point met the minimum volume requirements.
 - The existing scanner is fully depreciated.
- ◆ Added language that would allow for replacement of a scanner currently operating below minimum volume requirements (7500 CT equivalents) on an academic medical center campus to receive a one time exemption if the existing scanner is fully depreciated.
- ◆ Modified language that would require projection of physician referral commitments for initiation of a service to be based on actual physician referrals for the most recent 12-month period immediately preceding the date of the application. The referrals will be verified with data maintained by the Department through its "Annual Hospital Statistical Survey" and/or "Annual Freestanding Statistical Survey." Further, the use of referrals from an existing facility cannot drop the facility below the minimum volume requirement.
- ◆ Added geographic boundaries for referral commitments (75-mile radius for rural and micropolitan statistical area counties and 20-mile radius for metropolitan statistical area counties).
- ◆ Added language that would establish a Pilot Program to implement hospital-based portable CT scanners into a limited number of facilities. The requirements include certification as a Level I or Level II Trauma Facility by the American College of Surgeons. Qualified facilities could obtain up to two scanners of their choice. The scanner(s) would not be subject to minimum volume requirements and would not generate volume data for future CON applications. Data would be collected by the Department regarding utilization, cost, and benefit for patient care as compared to full body CT scanners.
- ◆ Added language that provides for expansion, replacement, relocation and acquisition of Dental CT scanners. The recommended volume threshold for expansion is 300 dental examinations per

year. The recommended volume threshold for replacement, relocation, and acquisition is 200 dental examinations per year.

- ◆ Added language that would establish criteria for a dedicated Pediatric CT scanner.
- ◆ Added a .25 conversion factor for pediatric patients to the existing weights for the calculation of CT volume data to recognize the increased time and effort in imaging the pediatric patient in non-pediatric CT scanners.
- ◆ Added language to clarify the definition of a “billable procedure” by adding that the CT procedure(s) be “performed in Michigan.”
- ◆ Added an additional exclusion to the definition of a “CT scanner” for clarification purposes: “CT simulators used solely for treatment planning purposes in conjunction with an MRT unit.”
- ◆ Other technical changes for clarity and consistency with the other CON Review Standards.

NH/HLTCU UNIT BEDS

The proposed CON Review Standards for NH-HLTCU Beds are being reviewed and modified to include, but are not limited to, the following:

- ◆ Added quality measures that apply to the applicant facility and all NH-HLTCU under common ownership or control both in Michigan and out-of-state. The total number of facilities, which meet the quality measures could not exceed 14% or up to 5 of its facilities. The quality measures criteria apply differently depending on the CON activity. The measures are as follows:
 - A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.
 - A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.
 - Termination of a medical assistance provider enrollment and trading partner agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.
 - A number of citations at level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.
 - Outstanding debt obligation to the State of Michigan for Quality Assurance Assessment Program (QAAP) or Civil Monetary Penalties (CMP).
 - Two state rule violations showing failure to comply with the state minimum staffing requirements and/or a federal repeat citation arising out of a standard survey documenting potentially harmful resident care deficits resulting from insufficient staff within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.
 - Repeat citations at the harm or substandard quality of care level issued within the last three years. However, if the facility has come under common ownership or control within 24 months

of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

- ◆ When a home with quality issues is acquired, it must participate in a quality improvement program, such as My Innerview, Advancing Excellence, or another comparable program for five years and provide an annual report to the Michigan State Long-Term-Care Ombudsman, Bureau of Health System, and the annual report shall be posted in the facility being acquired.
- ◆ Elimination of Alzheimer's Disease (384 beds), Health Needs for Skilled Nursing Care (HNSNC) (173 beds), and Religious (292 beds) from the Addendum for Special population Groups. These categories will no longer be eligible for additional beds. However, the current programs can be acquired, but if a facility de-licenses any of the beds, the beds will be removed from the pool.
- ◆ Added a rural high occupancy provision given the recommendation for removal of HNSNC beds with the following criteria:
 - The planning area must have a population density of less than 28 individuals per square mile.
 - The facility must have an average occupancy rate of 92% for the most recent 24 months.
- ◆ Hospice (130 beds) and Ventilator Dependent (179 beds) will be maintained with modified criteria.
- ◆ Behavioral Patients (400 beds) and Traumatic Brain Injury/Spinal Cord Injury Patients (400 beds) are proposed to be added to the addendum.
- ◆ Added the New Design Model as regular criteria within the Standards.
- ◆ Added language that requires the Department to recalculate the use rate and the bed need on a biennial basis utilizing the most recent data available.
- ◆ The comparative review criteria has been reviewed and modified to include the following:
 - Percentage of Medicaid days during the most recent 12 months.
 - Percentage of Medicaid licensed beds at the facility during the most recent 12 months.
 - Percentage of Medicare participation during the most recent 12 months.
 - Deduction of points for non-renewal or revocation of license and non-renewal or termination of Medicaid or Medicare certification.
 - Participation in a culture change model.
 - Percentage of applicant's cash.
 - Facility which is fully equipped with sprinklers.
 - Percentage of private rooms.
- ◆ Other technical changes.

In addition to comments on the draft language, the Department and CON Commission is soliciting public comment on the following potential amendments to the proposed language (refer to "For CON Commission Public Hearing on February 6, 2008 with Proposed Amendments" for actual language):

- ◆ Removal of the following from the proposed quality measures:
 - Two state rule violations showing failure to comply with the state minimum staffing requirements and/or a federal repeat citation arising out of a standard survey documenting potentially harmful resident care deficits resulting from insufficient staff within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.
 - Repeat citations at the harm or substandard quality of care level issued within the last three years. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.
- ◆ Modifications to the proposed quality measures as follows:
 - The following proposed change, identified in bold and italics, will provide a rolling time period.

A number of citations at level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, ***calculated from the quarter in which the standard survey was completed***, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

- Common ownership or control will apply to out-of-state nursing homes only when an applicant has fewer than 10 Michigan nursing homes. Thus, if the applicant has 10 or more Michigan nursing homes, then only nursing homes located within Michigan will be evaluated for the quality measures.
- Non-compliance with the quality measures will be calculated at 14% of the total nursing homes, but not more than 5 nursing homes.



Oral or written comments may be presented in person at the hearing on Wednesday, February 6, 2008, or submitted in writing via online submission at www.michigan.gov/mdch/0,1607,7-132-2945_5106_5409-147062--,00.html, no later than 5:00 p.m., February 13, 2008. If your comment is in written form, please provide a copy to the court reporter at the conclusion of your testimony. If you have any questions or concerns, please contact Andrea Moore at 517-335-6708.

Be sure all cellular telephones and pagers are turned off or set to vibrate during the hearing.

The hearing location is accessible for persons with physical disability. Interpreters will be available for the hearing impaired, if requested, seven days in advance.

01/23/08